

BEFORE THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue
Implementation and Administration of
California Renewables Portfolio Standard
Program

Rulemaking 11-05-005
(Filed May 5, 2011)

COMMENTS OF THE UTILITY REFORM NETWORK
ON THE STAFF FEED IN TARIFF PROPOSAL
FOR IMPLEMENTING SB 1122



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Pursuant to the November 19, 2013 Ruling of ALJ Simon, The Utility Reform Network (TURN) submits these comments concerning the Staff Proposal¹ implementing Senate Bill 1122.

1. Summary of TURN Policy Position

TURN is a statewide consumer organization, representing the interests of residential and small commercial utility customers. Our consistent goal in various proceedings addressing renewable distributed generation (“DG”) is that policies designed to promote the sustainable development of renewable DG technologies should maximize the effectiveness of ratepayer funding, especially if the cost of the DG projects exceed the costs of utility-scale renewable power procurement.

As a result, TURN strongly supported the price adjustment mechanism instituted in the ReMAT feed-in tariff program, as it provides a mechanism for balancing the benefits to developers of a fixed must-take price with the potential costs to ratepayers of a fixed administratively-set price that might exceed competitive prices.

TURN generally supports the Staff Proposal to continue the main elements of the ReMAT program. In order to more effectively protect ratepayers

¹ The Staff Proposal is included in Attachment B to the November 19, 2013 ALJ Ruling.

against unreasonable prices and/or market manipulation, while also balancing the need for adequate pricing in the different bioenergy technology subcategories, TURN recommends that:

- The starting price be reviewed based on the weighted average of bids in the last three RAM solicitations;
- The price adjustment mechanism allow for a price increase even if less than five projects are in the queue until at least one project subscribes to the starting price for the period; and

TURN also recommends that the eligibility rules be clarified to ensure that projects could bid into the ReMAT queue until the first solicitation under SB 1122 is launched.

Given that TURN has limited experience with the bioenergy sector, we do not at this time make recommendations concerning specific eligibility rules, allocation rules and resource definitions in the Staff Proposal. We intend to closely examine the suggestions of market participants and the utilities and may submit reply comments on these issues.

2. TURN Supports the ReMAT Design for SB 1122, but Recommends Minor Modifications to the Starting Price and Price Adjustment Mechanism

2.1. The Commission Must Balance the Goals of SB 1122 with the Potential Problems of Technology Carve Outs

SB 1122 provides for a technology-specific (bioenergy) addition to the ReMAT program, with specific megawatt allotments to each of three categories

of bioenergy fuel sources.² There are two potential problems with any such carve-out. One is the fact that prices might increase since there will be less competition among different technology vendors.³ The second potential problem is the increased opportunity for market manipulation of the ReMAT price adjustment mechanism due to reduced market participants. The bioenergy market for small (less than 3 MW) projects is much smaller than the solar photovoltaic market. Even more importantly, submarkets for the three separate categories may be extremely small, especially on a utility-specific service area basis.

The Staff Proposal compensates for these problems by: 1) allotting procurement amounts to different utilities based on estimated resource potentials; 2) aggregating bids across all utilities for purposes of the price adjustment mechanism; and 3) using the same starting price for all three categories based on the results of RAM auction bids for bioenergy projects.

TURN strongly supports the Staff Proposal to rely on the ReMAT structure, and TURN does not object to the procurement allotment, bid aggregation and single starting price.

² PU Code § 399.20(f)(2)(A) allocates the 250 MW in the program to: i) biogas from wastewater, municipal organic waste, food processing and codigestion; ii) dairy and other agricultural bioenergy; and iii) byproducts of sustainable forest management.

³ Indeed, the Legislative Analysis of SB 1122 acknowledges that bioenergy projects are not competitive, but explains that bioenergy projects, especially biogas, provide additional benefits of baseload generation and methane destruction. See, Kateley, Assembly Floor Analysis, August 24, 2012, p. 4.

2.2. The Starting Price Should Be Reviewed and Potentially Modified Based on the Last Three RAM Solicitations (Section 1.6.9)

Staff proposes to set the starting price for all three categories at \$124.66, based on the “weighted average post-TOD bid price of all conforming bids into the first three RAM auctions from bioenergy projects.”⁴

TURN agrees that the starting price could be based on bioenergy bid prices in the RAM, even if those bids were not accepted. TURN has not reviewed the data underlying the staff proposal, and TURN has not been able to obtain clarifying information concerning how the bids were weighted. Given the limited number of RAM bids, TURN is concerned whether the methodology appropriately considers near-term price data.

TURN has reviewed the bid offers for PG&E’s RAM 2, RAM 3 and RAM 4 solicitations and for SCE’s RAM 4 solicitation.⁵ The number of bioenergy bids was limited, and TURN cannot say whether any of the bids were for the same project. Without revealing confidential information, TURN can attest that not a single bid price in the “baseload” category in these four RAM solicitations (three PG&E and one SCE) materially exceeded the proposed starting price.⁶

TURN is thus concerned that the starting price is too high, potentially based on either the results of the first RAM solicitation or due to the weighing

⁴ Staff Proposal, p. 39.

⁵ These numbers are all confidential. TURN presumes the starting price was calculated based on confidential data from all three utilities.

⁶ One bid was a *de minimis* amount above the proposed starting price.

based on project size. TURN recommends that the methodology and data used to set the starting price be closely reviewed, and potentially recalculated based on the weighted-average of the bids from RAM 2-4.

2.3. The Price Adjustment Mechanism Should Allow for Changes Even if There Are Fewer than Five Projects in the Queue (Section 1.6.9)

TURN appreciates that there could be a problem if the starting price is too low for any of the three specific categories. In such a case, developers may not even get in the queue, since there are costs associated with meeting the viability criteria. Thus, TURN recommends that the criteria that five projects be in the queue prior to any price increase be relaxed until the point where at least one project accepts the offer price. Once a project in a specific category (aggregated across the IOUs) has accepted the offer price, the price adjustment mechanism should then revert to normal conditions, including the requirement for at least five eligible projects in the queue.

2.4. Projects Should Be Eligible for the ReMAT until the SB 1122 Solicitations are Launched (Section 1.6.1)

Staff recommends that projects which are eligible to bid for a contract pursuant to a future SB 1122 tariff may not seek a ReMAT contract. Staff explains that there could be market power concerns if projects had the opportunity to choose between prices offered under the ReMAT versus a potentially different price offered to SB 1122 projects. More specifically, such an outcome could result “in a ReMAT price that is not truly representative of a given market segment.”

TURN completely agrees that allowing developers to bid the exact same project into two different programs differentiated only by price is fundamentally poor public policy. Developers could bid into the program with the higher price and cause a price adjustment in the other program due to insufficient subscription.

Nevertheless, TURN appreciates that it may take some months for the Commission to adopt final rules for SB 1122 and for the utilities to implement a contract. TURN presumes that the Staff Proposal applies only to the time period after an SB 1122 contract is finalized and the first solicitation is launched. To prevent any confusion, TURN recommends that the Commission clarify that there is no prohibition against participation in the ReMAT until after the first SB 1122 solicitation. At that point, the utilities should provide developers with an option to remain in the ReMAT queue or obtain a priority position in the SB 1122 queue.

3. Conclusion

TURN appreciates the detailed work conducted by Staff and its consultant to develop rules for the implementation of SB 1122. TURN generally supports the Staff Proposal and suggests minor modification to the starting price and price adjustment mechanism.

December 20, 2013

Respectfully submitted,

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VERIFICATION

I, Marcel Hawiger, am an attorney of record for THE UTILITY REFORM NETWORK in this proceeding and am authorized to make this verification on the organization's behalf. The statements in the foregoing document are true of my own knowledge, except for those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I am making this verification on TURN's behalf because, as an attorney in the proceeding, I have unique personal knowledge of certain facts stated in the foregoing document.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 20, 2013, at San Francisco, California.

_____/s/_____

Marcel Hawiger
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